



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
999 18<sup>TH</sup> STREET- SUITE 300  
DENVER, CO 80202-2466  
Phone 800-227-8917  
<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2006-0038

IN THE MATTER OF:	)	
	)	
OWENS, INC.	)	FINAL ORDER
d/b/a OWENS BROTHERS CONCRETE	)	
	)	
RESPONDENT	)	

Pursuant to 40 C.F.R. §22.18, of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

09.12.06  
DATE

SIGNED  
Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

In the Matter of:	)	
	)	
<b>Owens Inc.</b>	)	
<b>Dbas Owens Brothers Concrete</b>	)	<b>EXPEDITED CONSENT</b>
	)	<b>AGREEMENT</b>
	)	
Respondent.	)	<b>DOCKET NO.: CWA-08-2006-0038</b>

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Owens Inc., by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of diesel fuel and hydraulic oil that occurred on or about September 13, 2004, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C. § 1321(b)(6) and (b)(3). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3. This authority has been properly delegated to the undersigned EPA official.

Respondent owned and operated Owens Inc. dba Owens Brothers Concrete formerly located at 5550 Sheridan Blvd, Arvada, Colorado.

Respondent admits that on or about September 13, 2004, its vehicle discharged approximately 25 gallons of diesel fuel and hydraulic oil into or upon Bear Creek and/or Evergreen Lake, perennial water bodies, and/or their adjoining shorelines.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of the Bear Creek and/or Evergreen Lake and/or their adjoining shorelines.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives their right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$ 500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act which, shall be paid no later than 30 days after the effective date of the Final Order by means of a cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notations "OSLTF – 311" and the title and docket number of this case. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency  
P.O. Box 371099M  
Pittsburgh, Pa. 15251

If the Respondent sends payment by a private delivery service, the payment shall be addressed to:

Mellon Client Service Center  
ATTN: Shift Supervisor  
Lockbox 371099M Account 9109125

500 Ross Street  
Pittsburgh, Pa. 15262-0001

If paying by EFT, the Respondent shall transfer \$ 500.00 to:

Mellon Bank  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh, Pa. 15235

In the case of an international transfer of funds, the Respondent shall use SWIFT address  
MELNUS3P.

The Respondent shall submit copies of the check (or, in the case of an EFT transfer,  
copies of the EFT confirmation) to the following persons:

**Tina Artemis, Regional Hearing Clerk (8RC)**  
**U.S. EPA Region 8**  
**999 18th Street, Suite 300**  
**Denver, Colorado 80202-2466**

and

**Jane Nakad**  
**Technical Enforcement Program (8ENF-UFO)**  
**U.S. EPA Region 8**  
**999 18th Street, Suite 300**  
**Denver, CO 80202-2466**

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill, (2) cleaned up the spill pursuant to federal requirements, and (3) taken corrective actions to prevent future spills. Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,  
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By : **TIMOTHY OSAG for/**  
Elisabeth Evans, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Date: **9/12/06**

**Owens Inc./Owens Brothers Concrete, Respondent.**

By : **SIGNED**

Date: **September 8, 2006**

Name: **Janet Owens White**

Title: **Vice President**

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **OWENS, INC., d/b/a OWENS BROTHERS CONCRETE, DOCKET NO.: CWA-08-2006-0038** was filed with the Regional Hearing Clerk on September 12, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to David Janik, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on September 12, 2006, to:

Janet Owens White  
Owens, Inc.  
15620 Ulster Street  
Brighton, CO 80602

Regular Mail to:

U. S. Coast Guard  
Commander  
Finance Center (OGR)  
U. S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

Telefaxed to:

U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268  
513-487-2063

September 12, 2006

**SIGNED** \_\_\_\_\_

Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE  
ON SEPTEMBER 12, 2006.**



*Printed on Recycled Paper*